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EXAMINER	
GILLESPIE, BENJAMIN	

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
01/14/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/582,347	OGASAWARA, HIDETO	
	Examiner	Art Unit	
	BENJAMIN J. GILLESPIE	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/5/2006; 6/9/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites limitations regarding viscosity, however, no relative temperature is set forth and therefore it is not clear when the claimed invention is satisfied since viscosity varies with change in temperature.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

3. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 11/918,443. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications are drawn to compositions useful in the production of reflectors, wherein said resin comprises 30-80 wt% polyamide resin, 10-60 wt% inorganic filler, and 5-50 wt% white pigment, wherein the polyamide resin is based on the reaction product of terephthalic acid and straight-chain or branched diamine.

6. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being aniticipated by Oka et al (2004/0034152). Oka et al teach a composition useful in the production of reflectors comprising (A) polyamide resin, (B) glass fibers, (C) titanium oxide, and (D) UV stabilizers (Abstract; paragraphs 26, 33, and 39). In particular, (A) is the reaction product of terephthalic acid and aliphatic diamine, such as 1,6-hexanediamine, 1,10-decanediamine, 1,11-undecanediamine, and 1,12-dodecanediamine, and the resulting polyamide has an intrinsic viscosity as low as 0.6 dl/g and a melting point below 350°C (Paragraphs 16, 10, 18, 25, and 45).

8. For 100 pts of (A), there is between 20 and 50 parts of (B), 5 and 100 parts of (C), and (D) consists of compounds such as benzotrizaole or benzophenone. Finally, paragraph 49 explains that the resulting composition is useful in molded articles, such as reflector plates for diodes. Regarding the claimed mechanical and optical properties, although not explicitly disclosed by the prior art, the examiner takes the position that they would inherently be exhibited by the relied upon composition since said composition is based on the same reactants and shares the same intrinsic viscosity as well as melt temperature.

9. Claims 1-2, 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Oka et al (JP 2000-204244). Oka et al teach a composition useful in the production of reflectors comprising (A) polyamide resin, (B) glass fibers, (C) titanium oxide, and (D) UV stabilizers (Abstract; paragraphs 20-22). In particular, (A) is the reaction product of terephthalic acid and aliphatic diamine, such as 1,6-hexanediamine, 1,10-decanediamine, 1,11-undecanediamine, and 1,12-

dodecanediamine, and the resulting polyamide has an intrinsic viscosity as low as 0.6 dl/g and a melting point between 280 and 340˚C (Paragraphs 8, 10, 18, and 24).

10. Patentees go on to teach that for 100 pts of (A), there is between 0.1 and 120 parts of (B) + (C), and regarding the claimed mechanical properties, although not explicitly disclosed by the prior art, the examiner takes the position that they would inherently be exhibited by the relied upon composition since said composition is based on the same reactants and shares the same intrinsic viscosity as well as melt temperature.

11. Claims 1-2, 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Oka et al (JP 07-228776). Oka et al teach a composition useful in the production of reflectors comprising (A) polyamide resin, (B) glass fibers, (C) titanium oxide, and (D) UV stabilizers (Abstract; paragraphs 8 and 23). In particular, (A) is the reaction product of terephthalic acid and aliphatic diamine, such as 1,6-hexanediamine, 1,10-decanediamine, 1,11-undecanediamine, and 1,12-dodecanediamine, and the resulting polyamide has an intrinsic viscosity of 0.6 dl/g and a melting point of 340˚C, please note the temperature within the cylinder is taken to be the melt temperature (Paragraphs 7, 12, 16, and 42).

12. It should be noted that while Oka et al teach the system exists as (A) + (B) + (D) or (A) + (C) +(D), it should also be noted that paragraph 22 states that (B) and (C) can both be present in a mixture with (A) and (D). What's more, (B) and (C) are each present relative to 100 parts by weight of (A) in amounts ranging from 5 to 150 and 0.5 to 50 respectively for (B) and (C) (Paragraphs 19-22). Regarding the claimed mechanical properties, although not explicitly disclosed by the prior art, the examiner takes the position that they would inherently be exhibited

by the relied upon composition since said composition is based on the same reactants and shares the same intrinsic viscosity as well as melt temperature.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oka et al (JP 2000-204244) in view of Oka et al (2004/0034152). Aforementioned Oka et al (JP 2000-204,244) teach reflector plate containing a composition comprising (A) polyamide resin, (B) glass fibers, (C) titanium oxide, and (D) UV stabilizers, wherein (A) is the reaction product of terephthalic acid and aliphatic diamine. Patentees fail, however, to list specific compounds for (D), as well as diode applications, or teach ranges of (B) and (C) with sufficient specificity to render the corresponding claimed ranges obvious.

14. As previously discussed Oka et al (2004/0034152) also teach reflector plates based on a composition (A) polyamide resin, (B) glass fibers, (C) titanium oxide, and (D) UV stabilizers, wherein (A) is the reaction product of terephthalic acid and aliphatic diamine. What's more (B) and (C) are present in amounts relative to 100 parts of (A) by 20-50 pbw and 5 to 100 pbw respectively. What's more, (D) is comprised of compounds such as benzophenone and benzotriazole, and the resulting reflector plate is useful in LED technology.

15. Therefore, it would have been obvious to use the reflector plate of Oka et al (JP 2000-204244) in a LED since Oka et al (2004/0034152) teach it is a suitable application for an

analogous composition and the prima facie case of obviousness rises from the expectation that compounds similar in structure will have similar properties. *In re Gyruik*, 596 F.2d 1012, 201 USPQ 552 (CCPA 1979).

16. It also would have been obvious to utilize the specific UV stabilizers of Oka et al (2004/0034152) in Oka et al (JP 2000-204,244) since Oka et al (2004/0034152) teach they are useful in an analogous compositions having similar applications and it is prima facie obvious to add a known ingredient for its known function. *In re Linder* 173 USPQ 356; *In re Dial et al* 140 USPQ 244. Finally, it would have been obvious to utilize the amounts of (B) and (C) disclosed by Oka et al (2004/0034152) in Oka et al (JP 2000-204244) since they are particular preferred for reflector plate based polyamides.

17. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oka et al (JP 07-228776) in view of Oka et al (2004/0034152). Aforementioned Oka et al (JP 07-228776) teach reflector plates containing a composition comprising (A) polyamide resin, (B) glass fibers, (C) titanium oxide, and (D) UV stabilizers, wherein (A) is the reaction product of terephthalic acid and aliphatic diamine. Patentees fail, however, to list specific compounds for (D), as well as diode applications, or teach ranges of (B) and (C) with sufficient specificity to render the corresponding claimed ranges obvious.

18. As previously discussed Oka et al (2004/0034152) also teach reflector plates based on a composition (A) polyamide resin, (B) glass fibers, (C) titanium oxide, and (D) UV stabilizers, wherein (A) is the reaction product of terephthalic acid and aliphatic diamine. What's more (B) and (C) are present in amounts relative to 100 parts of (A) by 20-50 pbw and 5 to 100 pbw

respectively. What's more, (D) is comprised of compounds such as benzophenone and benzotriazole, and the resulting reflector plate is useful in LED technology.

19. Therefore, it would have been obvious to use the reflector plate of Oka et al (JP 07-228776) in a LED since Oka et al (2004/0034152) teach it is a suitable application for an analogous composition and the prima facie case of obviousness rises from the expectation that compounds similar in structure will have similar properties. *In re Gyruik*, 596 F.2d 1012, 201 USPQ 552 (CCPA 1979).

20. It also would have been obvious to utilize the specific UV stabilizers of Oka et al (2004/0034152) in Oka et al (JP 07-228776) since Oka et al (2004/0034152) teach they are useful in an analogous compositions having similar applications and it is prima facie obvious to add a known ingredient for its known function. *In re Linder* 173 USPQ 356; *In re Dial et al* 140 USPQ 244. Finally, it would have been obvious to utilize the amounts of (B) and (C) disclosed by Oka et al (2004/0034152) in Oka et al (JP 07-228776) since they are particular preferred for reflector plate based polyamides.

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN J. GILLESPIE whose telephone number is (571)272-2472. The examiner can normally be reached on 8am-5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rabon Sergent/
Primary Examiner, Art Unit 1796

B. Gillespie